

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION**

LAWRENCE (LARRY) W. SINCLAIR)	
Plaintiff, Pro Se)	
)	Case No. 5:23-CV-109
VS)	
)	
BRIAN MARK KRASSENSTEIN, et al)	
<u>Defendants.</u>)	

**PLAINTIFFS RESPONSE TO DEFENDANTS MOTION TO DISMISS PURSUANT TO
FRCP 12 (b) 1 and ALTERNATIVE MOTION TO TRANSFER VENUE (Dkt 20)**

COMES NOW PLAINTIFF, Lawrence (Larry) W. Sinclair and submits to this Honorable Court plaintiffs response to defendants Rule 12 (b) 1 motion to Dismiss (Dkt 20) and states as follows.

Defendants by and through counsel (it is assumed since no appearance has been filed or formally made in the court or in the body of the motions acknowledging counsel of record) have filed a Motion to Dismiss claiming lack of subject matter jurisdiction. As grounds for defendants' motion, they claim that plaintiff lacks diversity in this action because as alleged by defendants, items published as used as exhibits in defendants motion demonstrate plaintiff does not reside within the State of Texas but instead resides and has resided in Mexico.

Defendants offer as evidence of their assertion of lack of diversity and Subject Matter Jurisdiction:

1. the address used for mailing address in this action has a “c/o” in front of it.
2. plaintiffs email signature contains a Monterrey Nuevo Leon Mexico reference defendants provide in Defendants Exhibit A (Dkt 20-1) of their motion seem to assume is represented as plaintiffs address, despite the information containing no street number and absolutely zero claim or reference of it being plaintiffs address.***(set intentionally by Plaintiff to demonstrate how Defendants repeatedly publish statements based on what they read without making even the slightest attempt to verify the truthfulness of what they are repeating as fact.)***
3. argue that the mailing address of plaintiff is a commercial property asserting as such plaintiff cannot reside at said property,
4. that plaintiff does not own or maintain any personal property, furniture etc. at the 1520 Sherman St Laredo Texas address,
5. and that references made on social media or implied as defendants put it demonstrate plaintiff lives in Mexico.

Plaintiff did in fact place “c/o” commonly known as “in care of” and noted in the complaint said address was plaintiffs mailing address for a specific reason (which Defendants actions on the platform known as X formerly known as twitter, on January 30, 2024 shortly after filing of their motion) makes clear. To avoid having

my friends business published on the defendants social media on X which they did anyway. As set forth below the Court will find the 1520 Sherman Street Laredo Texas address is listed on multiple accounts and services as my address and does not contain the “c/o” in it.

Plaintiff has attached hereto an *Affidavit of Erik Gamez*, the owner/operator of the long-standing Laredo, Texas family business known as Champion Fine Meats at 1520 Sherman Street, Laredo, Texas **(Exhibit 1)**. Plaintiff believes said Affidavit will eliminate almost 100 percent of the defendants claims as to plaintiff “cannot be residing at the property.”

In addition, plaintiff attached hereto his own *Affidavit of Lawrence (Larry) W. Sinclair* **(Exhibit 2)** providing the court with plaintiff’s sworn statement as to residence and citizenship as a citizen of the State of Texas, County of Webb, City of Laredo and have been since November 2021 when plaintiff relocated back to Laredo from Florida.

Plaintiff notes Defendants Exhibit A (Dkt 20-1) containing emails between plaintiff and defendants clearly engaged in a discussion seeking to resolve and settle the dispute are in violation of Fed Rules of Evidence Rule 408 and are inadmissible. Defendants could very easily have provided the Court with the email content redacted but chose not to do so. That being said there is no reference by plaintiff in the emails suggesting or implying the reference to a street with no number in Monterrey Nuevo Leon Mexico is plaintiffs address. Truth be told Plaintiff intentionally entered the reference in the signature line being confident defendants would demonstrate to the court exactly what plaintiff

has alleged, which is defendants publish statements as factual without making the smallest effort to verify the accuracy or truthfulness of the claims they publish. Defendants have demonstrated that clearly in their motion, affidavits and unfounded claims.

Defendants inclusion of social media posts where plaintiff refers to living in Nuevo Laredo is another demonstration of defendants publishing what they read as factual without bothering to verify its accuracy. In the “Two Laredo’s” area as Laredo and Nuevo Laredo are often referred to by those residing here many of us refer to living in both. Fact is a large number of citizens of Texas and Laredo Texas maintain residences on both sides of the river as well as spending time at both. Plaintiff does as setforth in Exhibits 1 & 2 spend some days and nights in Nuevo Laredo especially before and after undergoing medical procedures, doing so, contrary to the claims of defendants, does not diminish the fact plaintiff is a citizen of the State of Texas and City of Laredo and has been for more than 2 years including before, on, and after filing this action. Based on defendants argument a snow bird who is a citizen of Vermont, Maine or any other northern state who spends the cold winter months in Florida, Arizona, Texas or yes, even Mexico (which many do) would be considered to not be citizens of the United States or the state which they reside normally.

Plaintiff provides this court with a copy of the following as well:

1. Plaintiffs Texas Driver’s License (**Exhibit 3**) issued on February 10, 2022 (Plaintiff has redacted the street information from said license but not the city and state (plaintiff has redacted street info and partial

Driver's License Number to protect the privacy of individuals residing at that address after Defendants went on the social media platform X formerly known as Twitter shortly after filing their motions on January 30, 2024 continuing to defame and libel plaintiff and distribute personal information see attached **(Exhibit 4)** screen shots of Defendant Edward Krassensteins January 30, 2024 post timed at 6:20PM)

2. Plaintiffs Texas vehicle registration **(Exhibit 5)** from the Webb County Tax Assessors office (Plaintiff again has redacted street info, vin number and last 3 of license plate)
3. Plaintiffs Texas Voter registration card (again street info redacted) **(Exhibit 6) (Note Plaintiff just realized Voter registration expired on 12-31-2023 and will update it)**
4. Plaintiffs Laredo Trade Tag Toll account statements from July 2023 through January 2024 which was obtained when plaintiff began traveling for medical treatment. The transaction information has been redacted and each statement clearly shows on the bottom left corner these were ran January 30, 2024 **(Exhibit 7 of 7 pages)**

Upon consideration of the attached exhibits and information provided herein, Plaintiff would respectfully ask this Honorable Court find Plaintiff is indeed pursuant to law cited by defendants a domiciled citizen of the State of Texas and has been as demonstrated herein and Plaintiff has demonstrated to the Court Subject Matter Jurisdiction and Diversity has in fact been clearly established by Plaintiff.

PLAINTIFF RESPECTIVELY MOVEs THIS HONORABLE COURT **DENY**
Defendants Motion to Dismiss pursuant to Rule 12 (b) 1 of Federal Rules of Civil
Procedure.

In regard to defendants Alternative Motion for Transfer of Venue to the Middle District of Florida, Fort Meyers Division plaintiff would argue defendants do not get to select the Court most convenient to them because they feel they are entitled out of being burdened by distance. Defendants operate on internet-based operation where they solicit paying subscribers from around the United States and the world; they are known for publishing attacks against citizens in every corner of the country and collect sizeable income from the platform now known as X formerly known as Twitter with their deliberate defamatory and libelous posts.

Defendants assert transferring the case to another venue would be more suitable for witnesses. Defendants must think this Court and plaintiff are both a little slow to believe that defendants would have any witnesses to their online publication of defamatory and libelous statements that could close to justifying this Court transferring venue. Defendants are as they did in the process of service, simply trying to stall this case from moving forward and in the alternative seeking the Courts assistance in making plaintiffs ability to hold defendants accountable for their actions next to impossible to accomplish. Defendants by and through the post of defendant Edward Krassenstein attached as an exhibit to plaintiffs Ex Parte Motion for US Marshall service of summons (Dkt 11) have publicly acknowledged their intent to try and play the system. There is no valid basis or reason for this Court to transfer venue to a US District Court a

few miles from defendants' home, nor are defendants entitled to such a change of venue.

WHEREFORE PLAINTIFF RESPECTFULLY MOVES THIS HONORABLE COURT **DENY** Defendants In Alternative Motion to Transfer Venue.

Submitted this 31st day of January 2024

Respectfully Submitted,
Lawrence Sinclair
Lawrence (Larry) W. Sinclair
Plaintiff, Pro Se
Mailing Address
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CERTIFICATE OF SERVICE

I Lawrence (Larry) W. Sinclair HEREBY certify that a true and correct copy of the foregoing **PLAINTIFFS RESPONSE TO DEFENDANTS MOTION TO DISMISS PURSUANT TO FRCP 12 (b) 1 and ALTERNATIVE MOTION TO TRANSFER VENUE (Dkt 20)** has been furnished electronically (by E- service) Charles A. Bennett cbennett@bennettlegal.com Counsel for Defendants this 31st day of January 2024.

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